

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
EN BANC**

**KAPISANAN NG MGA MANGGAGAWA
SA MANILA RAILROAD COMPANY,
*Petitioner,***

-versus-

**G.R. No. L-19791
May 16, 1967**

**RAFAEL HERNANDEZ, ET AL.,
*Respondents.***

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DECISION

MAKALINTAL, J.:

Appeal by *Certiorari* to Review the Resolution En Banc of the Court of Industrial Relations in Case No. 2585-ULP, dated April 26, 1962.

On December 12, 1960 Rafael S. Hernandez and some four hundred members of Kapisanan Ng Mga Manggagawa sa Manila Railroad Company, thru Acting Prosecutor of the CIR, filed a complaint against the aforementioned union and its incumbent officers and members of the board of directors, charging them with violation of Section 17, sub- sections (c), (f), (h), (j), and (l) of Republic Act No. 875, by passing resolutions directing an assessment of P5.00 monthly from everyone of the members without their authority and consent;

appropriating five thousand pesos from the forced saving of the union to cover attorney's fees; appropriating the amount of P15,000.00 to cover respondent Vicente K. Olazo's^[1] trip abroad; increasing the monthly salaries of union officers without the approval of the general membership; authorizing the expenditure of P5,000.00 from the strike fund; abuse in the use of the union car, failure of Olazo to render an accounting of his trip abroad and refusal of Olazo to let complainant Hernandez inspect the books of accounts of the union.

After the hearing before the court below was closed but before its decision was rendered, certification was submitted to it by respondents there (petitioner here), to the effect that in a convention held on March 23, 24 and 25, 1961 the members of the union passed several resolution, as follows:

- “1. The majority of the members of said convention has ratified the collection of five pesos (P5.00) monthly as special assessment from the members of the union to cover the deficit for the retirement benefits;
2. The majority ratified all union expenditures for the year 1959-1960 and all resolutions passed in the year 1959-1960 which resolutions and expenditures are questioned in Case No. 2585-ULP in the Court of Industrial Relations; and
3. That during said convention, the union president rendered an accounting of his trip abroad and his report has been approved by the majority of the members of the convention.” (Annex C)

The above-mentioned certification was made part of the record of the case.

On July 27, 1961, the trial court (Judge Jose S. Bautista) rendered the following judgment:

“IN VIEW WHEREOF, except for paragraph 9 of the complaint, all other charges contained therein are hereby dismissed. Respondents are hereby declared guilty of unfair labor practice pursuant to sub- paragraph (1), Section 17 of Republic Act 875;

are directed to cease and desist from further committing such unfair labor practice complained of; and are also ordered to allow complainant Rafael Hernandez to inspect the books of accounts, and other pertinent documents of respondent union.”

The complainants filed a motion for reconsideration and on April 26, 1962 the lower court en banc issued the following resolution, with Judges Jose S. Bautista and Baltazar M. Villanueva dissenting and voting for the affirmance of the original decision:

“IN VIEW OF THESE CIRCUMSTANCES, we are forced to vote for the allowance of the motion for reconsideration of the aforesaid decision, and in its stead we issue an order directing the respondents to cease and desist from further committing the unfair labor practice acts described in the complaint; and in order to make effective the policies of the Industrial Peace Act, respondents are hereby ordered to stop the monthly collection of five pesos (P5.00) from the members of the respondent union; that respondents are hereby ordered to render an accounting of all expenses incurred by respondent Olazo in his last trip abroad in July, 1960 and to reimburse to the union all expenditures and increases in salaries which were not properly authorized under the union’s constitution and by-laws; and that respondents are further ordered to post a copy of this resolution in two conspicuous places in the premises of the business establishment of the Manila Railroad Company and to report to this Court within thirty (30) days their compliance of this resolution.”

Respondents below filed the instant petition for review and raise the following issues:

- (1) Whether or not the CIR has the power under Section 17 of Republic Act 875 to declare a union assessment excessive and unjustified where the necessity for the same is admitted by the respondents themselves;
- (2) Whether or not the CIR may interfere with the internal labor organization procedure of the union where the

evidence shows that redress to the highest union governing body has not been availed of;

- (3) Whether or not in unfair labor proceedings the CIR is limited to evidence presented during the hearing; and
- (4) Whether or not the 10% requirement under Section 17 of Republic Act 875 is complied with where the union members involved are not properly identified.

Judicial interference in internal affairs of a labor union is sanctioned by Section 17 of Republic Act 875, otherwise known as the Industrial Peace Act, which provides:

“SEC. 17. Rights and conditions of membership in labor organizations. — It is hereby declared to be the public policy of the Philippines to encourage the following internal labor organization procedures. A minimum of ten percent of the members of a labor organization may report an alleged violation of these procedures in their labor organization to the court. If the Court finds, upon investigation, evidence to substantiate the alleged violation and that effort to correct the alleged violation through the procedures provided by the labor organization’s constitution or by-laws have been exhausted the court shall dispose of the complaint as in ‘unfair labor practice cases.’”

For the court to intervene two requirements must be satisfied: (1) at least 10% of the union membership must concur to report the alleged violation; and (2) the procedures provided by the union’s constitution or by-laws must be exhausted.

Petitioner here contends that the 10% requirement of the law was not satisfied in this case and points out that the signatures appearing on Annex A to the complaint in the court below were not properly identified. The lower court, however, found that this requirement was complied with and we have no reason for disturbing this finding of fact.

It is true that under the statute redress must first be sought within the organization itself in accordance with its constitution and by-laws.

However, it has been held that this requirement is not absolute, but yields to exceptions under varying circumstances. In the case at bar, noteworthy is the fact that the complaint was filed against the union and its incumbent officers, some of whom were members of the board of directors. The constitution and by-laws of the union provides that charges for any violation thereof shall be filed before the said board. But as explained by the lower court, if the complainants had done so the board of directors would in effect be acting as respondent, investigator and judge at the same time. To follow the procedure indicated would be a farce under the circumstances. Where exhaustion of remedies within the union itself would practically amount to a denial of justice, or would be illusory or vain, it will not be insisted upon, particularly where property rights of the members are involved, as a condition to the right to invoke the aid of a court.

Going back to the first issue, petitioner here argues that since the respondents admit the necessity of the assessment of P5.00 upon each member the court has no power under Section 17 of Republic Act 875 to declare said assessment excessive and unjustified. The contention is not correct. The respondents' complaint below, as explained by counsel in the course of the hearing before the trial court, did not touch on the question of whether such assessment was excessive or unjustified, but rather on the fact that it was, together with other actuations of the union officers and board of directors, contrary to the constitution and by-laws of the said union. They point out, correctly as we see it, that Section 1, Article VI of the union's constitution and by-laws provides for a contribution of P2.00 from each member to cover the retirement benefits due to retiring members; that the collection of P5.00 was based merely on the circular of the president of the union, which appears to have been authorized by the board of directors; that the board alone cannot amend the union's constitution and bylaws; and that the increased assessment of P5.00 is in the nature of such an amendment, and therefore required approval in a convention of the union members.

Petitioner here stresses the fact that approval by the members was obtained in their convention held on March 23, 24 and 25, 1961, as shown by the certification to that effect dated March 27, 1961. The trial court, however, disregarded that certification on the ground that it was submitted after the hearing had been terminated and without

the respondents' having been given the opportunity to cross-examine the certifying officers.

Section 5 (b) of Republic Act 875 provides that the court in rendering its decisions "shall not be bound solely by the evidence presented during the hearing but may avail itself of all other means such as (but not limited to) ocular inspections and questioning of well-informed persons which results must be made a part of the record." This provision, however, is not meant to do away with the requirements of due process. Respondents had the right to be heard before the certification was admitted so that it could inquire into and test, by cross-examination if necessary, the veracity of the facts alleged therein. Otherwise self-serving evidence could easily find its way into the record.

On the other hand, we cannot close our eyes to the fact that the resolutions referred to, apparently passed precisely to meet the objections of herein respondents as alleged in their complaint below, may have a material bearing on the issues in this case. It would therefore serve the ends of truth and justice to have said resolutions properly presented as evidence so that they may be considered by the trial court.

Wherefore, the decision appealed from is set aside and this case is remanded below for the reception of evidence concerning the resolutions aforesaid, and for the rendition of the corresponding judgment thereafter. No pronouncement as to costs.

Concepcion, C.J., Reyes, Dizon, Regala, Bengzon, Zaldivar, Sanchez and Castro, JJ., concur.

[1] Olazo was president of the union.